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CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

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CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 98-0559

PLANNED DEVELOPMENT PERMIT NO. 53203
SITE DEVELOPMENT PERMIT NO. 53204
CONDITIONAL USE PERMIT NO. 53205
RHODES CROSSING (MMRP)
CITY COUNCIL

This Planned Development Permit, Site Development Permit and Conditional Use Permit is granted by the Council of the City of San Diego to KEITH B. RHODES, Trustee, KEITH B. RHODES LIVING TRUST DATED NOVEMBER 11, 1999, AND JOHN W. GRUS LIVING TRUST DATED OCTOBER 2, 1996, and FIELDSTONE COMMUNITIES, a California Corporation, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126-0301, 126.0501 and 126.0601. The 147.39 acre site is located generally on the west and east sides of Carmel Mountain Road both north and south of State Route 56 and west and east of Camino Del Sur in the proximity of the intersections of Camino Del Sur with State Route 56 and Camino Del Sur with Carmel Mountain Road in the existing AR-1-1 and RS-1-14 (proposed RS-1-14, RM-3-9, CR-2-1 and CC-1-3) zones of the Rancho Penasquitos Community Plan area and the Torrey Highlands Subarea Plan area. The project site is legally described as a Portion of the NW1/4, SW1/4 and the NE1/4, SW1/4 and the SW1/4, SW1/4, Sec. 13, T14S, R3W, SBBM, and a Portion of Rancho de Los Penasquitos excepting therefrom Lots 1-37, Vista Alegre, Map No. 13309.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners and Permittees to construct a total of 741 residential dwelling units, 257,200 square-feet of commercial use, 273,855 square-feet for a self-storage facility, a private park and open space, and street vacations and easement abandonments, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated March XX, 2004, on file in the Development Services Department. The exhibits are identified as follows:

Sheet 1: Cover Sheet/Key Map
Sheet 2: Sections/Details
Sheet 3-4: Existing Topographic Conditions

Sheet 5-6: Slope Analysis
Sheet 7: Cross sections
Sheet 8-9: Area 4 Grading and Site Plan
Sheet 10-11: Area 6-7 Grading and Site Plan
Sheet 12-13: Area 2a-2b Grading and Site Plan
Sheet 14-15: Areas 8-9 and 3a-3b Grading and Site Plan
Sheet 16: Best Management Practices
Sheet 17: Street vacations and Easement Abandonments
Sheet 18-38: Landscape Plans
Sheet 39: Wall and fencing plans
Sheet 40: Architecture Cover Sheet
Sheet 41-66: Architectural Plans
Sheet 67-73: Self-Storage Facility Plans
Sheet 74-104: Multi-Family Residential Plans

The project or facility shall include:

- a. A total of 289 residential dwelling units within the Torrey Highlands Subarea Plan area consisting of 47 detached single-family dwellings and 242 multi-family dwellings; and
- b. A total of 452 residential dwelling units within the Rancho Penasquitos Community Plan area consisting of 110 detached single-family dwellings and 342 multi-family dwellings; and
- c. Within the Torrey Highlands Subarea Plan area, a total of 250,000 square-feet of commercial space within a major commercial center with five major buildings, shop structures and six pads for single users (including drive-thrus) ; and
- d. Within the Rancho Penasquitos Community Plan area, a total of 7,200 square-feet of space for a gasoline service station/mini-mart (under the Conditional Use Permit) and a lube and oil change facility; and
- e. A total of 273,855 square-feet for a self-storage facility; and
- f. Landscaping (planting, irrigation and landscape related improvements); and
- g. Off-street parking facilities for all uses, including parking structures for the multi-family developments; and
- h. A private passive use park within Development Area 3b, pedestrian pathways, retaining walls, decorative walls and fences, security and decorative lighting, private recreational areas within the multi-family development areas, commercial and residential identification signage; and

- i. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site

improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-dated March XX, 2004. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. This Permit shall become effective with the effective date of the corresponding rezone adoption and the recordation of this Permit as required in Condition No. 3 above.

11. Rezoning of the subject property shall become effective upon recordation of the corresponding final subdivision map(s) for that area.

12. The Conditional Use Permit [CUP] and corresponding CUP related use of the site shall expire on March XX, 2024. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.

13. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

14. The utilization of this CUP for alcoholic beverage sales is contingent upon the subsequent approval, by the State of California Alcohol Beverage Control Board [ABC] of a license to sell alcohol at this location. The issuance of the CUP does not guarantee the granting of a license by the ABC to sell alcohol at this location.

15. This Permit may be developed in phases. Each phase shall be constructed to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved exhibits, dated March XX, 2004).

16. At all bus stops within the project area, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

GEOLOGY CONDITION:

17. Prior to issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Work Order and Drawing Numbers. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over- excavation depth, and limits of remedial grading.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

18. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

19. As conditions of the Vesting Tentative Map, Planned Development, Site Development and Conditional Use Permits, the mitigation measures specified in the MMRP, and outlined in the ENVIRONMENTAL IMPACT REPORT, Project No. 3230 (SCH No. 2002121089) shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

20. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the ENVIRONMENTAL IMPACT REPORT, Project No. 3230, satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Biological resources, Transportation/Circulation, Noise, Historical Resources, Aesthetics/Visual resources/Community Character, Hydrology/Water Quality, Geotechnical Conditions, Paleontological Resources, Utilities, Public Services and Recreation.

21. After project approval by the Decisionmaker and prior to the issuance of any subsequent permit(s), the applicant shall submit a deposit of \$10,000.00 to the Development Project

Manager in the Development Services Department to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).

22. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

MSCP REQUIREMENTS:

23. Third Party Beneficiary Status: The issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (EAS) and any amendments thereto (16 U.S.C. Section 1531 et seq.). In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

24. MSCP Compliance: The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Final Environmental Impact Report for the "Rhodes Crossing Project" (Project No. 3230, SCH # 2002121089), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP: Biological Resources and Hydrology/Water Quality. In addition, the following condition shall apply to ensure compliance with the City's MSCP Land Use Adjacency Guidelines (Section 1.4.3 of the City's MSCP Subarea Plan [March 1997]):

a. Fencing: Prior to issuance of any building occupancy permits, a combination of block wall, chain link, wrought iron and peeler pole fencing shall be constructed along the perimeter of all on-site vernal pool/resource preserve areas and areas adjacent to the MHPA in conformance with the approved Wall and Fencing Plans (Sheet 39 of 105 [October 13,

2003]), satisfactory to the City Manager and the City Engineer. Any proposed changes to the proposed size, location or type of fence shall be approved by the City Manager prior to issuance of occupancy permits. All preserve fencing shall be located on the subject premises and maintained by the Owner/Permittee in perpetuity. Any necessary future fence repairs shall be conducted by the Owner/Permittee in a manner which does not result in impacts to the MHPA, sensitive biology resource or wildlife movement.

b. Revegetation: Prior recordation of the first final map and/or issuance of any grading permits, the applicant shall prepare a final revegetation plan for the on-site vernal pool perimeter planting areas, as shown on the approved landscape plans, to the satisfaction of the City Manager in accordance with the City's Landscape Regulations (Chapter 14, Article 2, Division 4 of the City's Land Development Code).

25. MHPA Conveyance: Prior to conveyance of any on-site land to the City for MHPA or other biological/open space management purposes, in fee or otherwise, all subject areas shall be approved by the City Manager in coordination with appropriate City Departments. The final maps shall clearly show, with acreages and method of conveyance, all areas proposed to be conveyed to the City for MHPA or other biological/open space management purposes. Any land conveyed to the MHPA shall be either fee title to the City, or via a conservation easement or covenant of easement granted in favor of the City and wildlife agencies. Conveyance of any MHPA land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes; these features shall have conservation easements recorded over them if accepted into the MHPA, with maintenance and management responsibilities retained by the Owner/Permittee unless otherwise agreed to by the City.

26. Habitat Management Plan: Prior to recordation of the first final map and/or issuance of any grading permits, the Owner/Permittee shall prepare a Final Habitat Management Plan for the approved Rhodes Crossing tentative map to the satisfaction of the City Manager in coordination with appropriate Departments, including Development Services and Planning. The Final Plan shall be prepared in substantial conformance with the Draft Habitat Plan (Helix Environmental Planning, Inc. August 1, 2003). All costs associated with plan preparation and long-term management of the on-site preserved areas shall be the responsibility of the Owner/Permittee or its designated representative. The entity/designee selected by the Owner/Permittee to manage the on-site preserved lands shall be acceptable to the City.

AFFORDABLE HOUSING REQUIREMENTS:

27. Residential units on the following lots shall be subject to the Affordable Housing requirement for Subarea IV, which requires 20% of the pre-density bonus units be provided to families earning no more than 65% of the area median income: Unit 1- Lots 95, 96, 101, & 102; Unit 2 – Lots 178 and 179; Unit 4- All 242 multiple dwelling units; Unit 6- Lots 1-26 and Lot 28; and Unit 8 Lots 70-83.

28. Prior to the filing of the first final map, Subdivider shall comply with the requirements of the Torrey Highlands Subarea Plan, which requires that the Rhodes Crossing Project provide 20% of the project's pre-density bonus units be affordable to persons at 65% of the area median income (the "Affordable Housing Requirements") by satisfaction of the requirements of subparagraph A., below:

A. Subdivider shall assure the construction and occupancy of an "Affordable Housing Project" consisting of forty-seven (47) units to be constructed on **Lot 122** of Unit 4, as shown on the Tentative Map. Subdivider shall execute an agreement ("the Affordable Housing Agreement"), subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee, and the City Manager of the City of San Diego, or designee, addressing the following issues:

1. Performance Security for the construction of (the "Affordable Housing Project") and dedication of land (the "Affordable Housing Site") for the construction of the Affordable Units (the "Affordable Units") on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director of the Housing Authority of the City of San Diego, or designee ("Executive Director");
2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:
 - a. Issuance of building permits for the Affordable Project shall occur on or before the earlier of:
 - (i) the issuance of building permits for construction of the 121st market rate dwelling unit (number of units which represents 50% of market rate units); or, the date which is twenty-four (24) months after the filing of the first final map;
 - (ii) In no event shall the issuance of building permits for the construction of the 121st market rate dwelling unit occur until building permits for construction of the forty-seven (47) affordable units are authorized by the City and are obtained by the Subdivider. Further, if individual parcels are sold initially by Subdivider without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permit issued, in determining when the issuance of the building permit occurs for the 121st and 181st or greater, market rate unit.
 - b. Completion of construction of the Affordable Project shall occur upon the earlier of:

(i) Eighteen (18) months after the issuance of building permit for the Affordable Project as referenced in Paragraph 2a. hereof; or

(ii) Three and one-half years after the filing of the first final map.

Further, the Subdivider is proposing to build a single project on **Lot 122**, of Unit 4, to include the Affordable Units and up to 195 multifamily, market units. Under this proposal the Affordable Units and the 195 multifamily, market units must be completed and occupied concurrently.

If the Affordable Units and 195 multifamily, market units are built as separate projects, the issuance of building permits for the construction of the 181st market rate unit (number of units which represents seventy-five percent (75%) of market rate units) shall not occur until the completion of the forty-seven (47) affordable units is authorized by the City.

- c. Occupancy of the Affordable Project shall occur not later than one hundred eighty (180) days after the completion of construction as referenced in Paragraph 2.b. above.
- d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve (12) months, each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the Executive Director, in his/her sole discretion. Extensions for good cause shall not be unreasonably withheld.

3. A Declaration of Covenants, Conditions and Restrictions (the "Declaration"), restricting the occupancy and affordability of the Affordable Project for a period of fifty-five (55) years from the date of completion of the Affordable Project, which Declaration shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Sites on Lot 122, in a first priority position. All Affordable Units shall be for occupancy by and at rates affordable to, families earning no more than sixty-five percent (65%) of the Area Median Income, as adjusted for family size and utilities. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute ("Government Code Section 65915") applies, rental rates shall not exceed sixty percent (60%) of the Area Median Income, as adjusted for assumed family size and utilities.

4. Additional security for the performance by the Subdivider of the Affordable Housing Requirements shall be provided by a deed of trust in favor of the

Executive Director, recorded against the Affordable Housing Site, in second lien priority, (junior only to the Declaration) assuring the timely performance of the Agreement referenced in Paragraph A, hereof. The deed(s) of trust in favor of the Housing Authority may be subordinated to construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the Executive Director, in her/his sole discretion, if deemed essential to construction and/or operation of the Affordable Project, upon such terms and conditions as she/he may impose. Subordination of the deed(s) of trust in favor of the Housing Authority shall not be unreasonably withheld.

5. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification of existing condition(s), as may be granted by the Executive Director in her/his sole discretion.
6. Subdivider, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may, from time to time, be required to effectuate the provisions of Affordable Housing as contemplated by these condition(s) of approval.

The Rhodes Crossing Project Affordable Housing Program is attached to these Permit conditions and are on file in the Office of the Development Services Department and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements. To the extent that there is any inconsistency between the two, the terms of the condition shall prevail.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

29. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit 'A' Brush Management Plan on file in the Office of the Development Services Department:

30. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A.'

31. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval by the City Manager and the Fire Marshall. The

construction documents shall be in substantial conformance with Exhibit 'A' and shall comply with the Uniform Fire Code, M.C. 55.0888.0201, the Landscape Standards and the Land Development Code Section 142.0412 (Ordinance - 18451).

32. All properties associated with this permit are located east of Interstate 805. Those properties adjacent to highly flammable, native or naturalized vegetation shall therefore be required to implement a Brush Management Program with the following Zone dimensions as shown on Exhibit 'A':

- Site 8: Lot 70 – Modified Zone One of 55-feet along west property-line
- Lots 71-74 – Modified Zone One of 50-feet, inclusive of Street ‘F’
- Lots 78-80 – Modified Zone One of 55-feet along west and south property-lines
- Lot 82 – Zone One 30-feet and Zone Two 40-feet along north property-line
- Lot 83 – Zone One 30-feet and Zone Two 40-feet along north property-line and Modified Zone One of 55-feet along west property-line
- Site 9: Lots 85 & 86 - Modified Zone One of 50-feet, inclusive of Street ‘C’
- Lots 87 thru 91 - Modified Zone One of 55-feet, inclusive of Street ‘C’

33. The construction documents shall conform to the architectural features as described in Section 142.0412(d).

34. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc) are not permitted, while non-combustible accessory structures with a minimum fire rating of one hour or more may be allowed subject to Fire Marshall and the City Manager’s approval.

35. In zones One and Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.

36. Provide the following note on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

37. Prior to final inspection and the issuance of any Certificate of Occupancy for any building subject to brush management, the approved Brush Management Program shall be implemented.

38. The Brush Management Program shall be maintained at all times in accordance with the Land Development Manual - Landscape Standards.

FIRE REQUIREMENTS:

39. Residences constructed on Lots 35 and 36 on Proposed Street 'C' shall be equipped with a residential fire sprinkler system satisfactory to the Fire Marshal.

ENGINEERING REQUIREMENTS:

40. Not more than forty-percent (40%) of the property frontage on each residential lot may be allocated to driveway curb opening.

41. Prior to the issuance of any building permit, the applicant shall design the proposed project to accommodate the SR-56 freeway, satisfactory to the City Engineer.

42. To prevent vehicles from encroaching onto the sidewalk, the minimum driveway length behind the property line is twenty (20) feet or eighteen (18) feet with roll-up garage doors.

43. The applicant shall provide appropriate traffic mitigation measures to reduce the through traffic on Sundance Avenue, satisfactory to the City Engineer.

44. Prior to the issuance of any building permit in Torrey Highlands Subarea IV, the project shall conform to the Torrey Highlands Subarea IV Transportation Phasing Plan in the Public Facilities Financing plan.

45. The applicant shall prepare and incorporate a Transportation Demand management plan.

46. The commercial parking requirements are as follows:

- a). Commercial North: $250,000 \text{ s.f.} \times 1 \text{ space}/200 \text{ s.f.} = 1,250 \text{ spaces}$
- b). Commercial South: $2 + 1 \text{ space}/333 \text{ s.f.} \times 7,200 \text{ s.f.} = 23 \text{ spaces}$

The proposed 23 parking spaces for the Commercial South area and the proposed 1,252 parking spaces for the Commercial North area are adequate.

47. The parking requirements for the multi-family Sites are as follows:

- a). Multi-residential Site 3 (342 units): Minimum parking requirement is 633 parking spaces. The proposed 633 spaces are adequate.
- b). Multi-residential Site 4 (242 units): Minimum parking requirement is 441 parking spaces. The proposed 441 spaces are adequate.

48. Lots A, B, C, D, H, I, L, M, P,Q, R, S, W, T, Y, Z, AA, and AB, shall have Open Space Easements and be owned and maintained by the Home Owners Association.

49. Lots E, F, G, J, K, N, O, U, V, and X shall have Building Restricted Easements and be owned and maintained by the Home Owners Association.

50. The Open Space Division WILL NOT accept in fee those lots with vernal pools.

LANDSCAPE REQUIREMENTS:

51. No change, modification, or alteration shall be made to the Project unless appropriate application or amendment of this Permit shall have been granted by the City.

52. Prior to issuance of any grading permits, construction documents for the revegetation and hydroseeding of all disturbed land consistent with the Land Development Manual - Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance to Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. Owner/Permittee shall complete erosion control measures, including planting and seeding of all slopes and pads, within ninety-days of the completion of grading or disturbance.

53. Prior to issuance of any building permits, complete landscape and irrigation construction documents consistent with the Land Development Manual - Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.

54. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A No-Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

55. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Severe pruning or "topping" of trees shall not be permitted unless specifically approved by the Landscape Review Section of the Land Development review Division.

56. The Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements consistent with the Land Development Manual - Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for acceptance by the City Manager.

57. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, it shall be repaired or replaced by the Owner/Permittee in kind and equivalent size per

the approved plans within thirty days of completed construction. Replacement size of plant material after three years shall be equivalent to the size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

PLANNING/DESIGN REQUIREMENTS:

58. No fewer than 1,275 off-street parking spaces shall be maintained on the commercial property sites at all times in the approximate locations shown on the approved Exhibit A. Additionally, eleven (11) off-street parking spaces shall be maintained for the self-storage facility. Multi-family parking requirements are described in Condition No. 47 of this permit. All detached single-family dwelling units shall maintain a minimum of two off-street parking spaces per residence and on the same lot as the dwelling. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

59. A proposed Private Park, for passive use, is located adjacent to Area 3a. The grading for the park shall not impact the watershed for the adjacent vernal pools. Plans shall be submitted to the Development Services Department that indicate grading will not conflict with the existing watershed as shown in the Environmental Impact Report, to the satisfaction of the Development Services Department Director.

60. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

61. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

62. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

63. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

64. No building additions, including patio covers, shall be permitted unless approved by the homeowners association (if one is established) and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

65. The architecture for each structure/tenant in the Regional Commercial Shopping Center shall substantially conform to the style, level of detail, facade articulation, and roofline variation identified in the architectural Exhibits "A" in order to provide a center that maintains a unified design theme that complements the community character.

66. The builder shall make available for residential units information on energy efficient appliances and technology in its marketing materials and within its sales office. Copies of the marketing materials shall be provided to the City Manager prior to issuance of building permit.

67. The builder shall either provide, or offer as an option, alternative energy technologies to be incorporated into the residences during construction. The provision of, or option for, the alternative energy shall be identified in the marketing materials that are provided to the City Manager prior to issuance of building permit.

68. Prior to issuance of building permits for the buildings identified as Majors 1, 2, 3, 4 and 5, the applicant shall demonstrate that the buildings incorporate daylighting as a method of reducing energy consumption. Daylighting is the use of direct, diffuse, or reflected sunlight to provide full or supplemental lighting for building interiors.

69. The following residential lots, which will be incorporated into the Rancho Penasquitos Community Planning Area, shall remain subject to all applicable terms and conditions approved by the November 5, 1996 ballot Proposition "H" which approved the Torrey Highlands Subarea Plan: residential lots 95, 96, 101, 102 (in Unit 1), residential lots 178 and 179 (in Unit 2), residential lots 26 and 28 (Unit 6) and residential lots 70 through 83 inclusive (Unit 8).

70. The following residential lots, which will be incorporated into the Rancho Penasquitos Community Planning Area, shall remain subject to the Facilities Benefit Assessment for Torrey Highlands as approved by the November 5, 1996 Ballot Proposition "H" residential lots 95, 96, 101, 102 (in Unit 1), residential lots 178 and 179 (Unit 2), residential lots 26 and 28 (Unit 6) and residential lots 70 through 83 inclusive (Unit 8).

71. The Area of Benefit for Torrey Highlands shall remain unchanged and reflect that area approved by the November 5, 1996 Ballot Proposition "H".

72. A Process Two Substantial Conformance Review (SCR) application shall be submitted and approved prior to issuance of Building Permits for single dwelling units (model units included). If multiple builders are involved, each builder shall be required to submit their own Process Two SCR. The SCR shall be provided to the Rancho Penasquitos Planning Board for review. The SCR shall be reviewed by the Development Services and Planning Departments for conformance with Rhodes

Crossing Design Guidelines, the Rancho Penasquitos Community Plan, and the Torrey Highlands Subarea Plan, and PDP 98-0559.

73. A five-foot wide, permanently non-gated pedestrian/bicycle connection (access way) shall be provided to connect the southern end of Senda Panacea to Unit 2.

75. Any entry signs proposed for the private park will be consistent with those used in Rancho Penasquitos.

76. The proposed private park, which is located on privately owned land, shall be available for public use for the hours of 8:00 a.m. to sunset daily, unless extended by the property owner.

77. All personnel involved in the sale of alcoholic beverages at the gas station/mini-mart shall be required to participate in the Alcoholic Beverage Control Department's Licensee Education on Alcohol and Drugs (LEAD) Program prior to working in the mini-mart.

78. Advertisements for alcoholic beverages shall only be visible from within the gas station/mini-mart. No Advertisements for alcoholic beverages shall be visible from outside of the building.

79. No beer or malt beverage products shall be sold at the gas station/mini-mart in less than six pack quantities, per individual sale. The sale of single quarts (32 oz.), 40 oz., or similar containers is expressly prohibited. No wine coolers, splits, or similar beverages shall be sold in less than four pack quantities, per individual sale.

80. Hours of operation for the gas station/mini-mart/vehicular use facility and corresponding sale of alcoholic beverages, shall be limited to 6:00 a.m. to 11:00 p.m. daily.

81. Any request for a substantial conformance for the proposed gas station, mini-mart, and vehicular use facility, shall be processed as a Process Two and shall be routed to the Rancho Penasquitos Community Planning Board.

82. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit A-dated March XX, 2004); or
- b. Citywide sign regulations.

83. For the multi-family residential, commercial retail and self-storage commercial development and gas station (excludes single-family residential development areas), the following shall apply:

- a). Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line,

construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

- b). Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the outer boundary of the multi-family, commercial retail, gas station site and self-storage commercial development area boundaries. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

84. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

85. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

86. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

87. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.

88. No merchandise, material, or equipment shall be stored on the roof of any building.

89. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

90. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable

materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit A.

91. The commercial regional center shall contain no single tenant greater than 75,000 gross square-feet of area.

92. Any grocery store located within the commercial regional center shall be required to be located within major 2 (the building on the east portion of the site closest to Carmel mountain road) in order to be closer to existing and proposed residential development.

WASTEWATER REQUIREMENTS:

93. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

94. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned.

95. Prior to the issuance of any building permits, the developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within fully improved public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director.

96. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

97. Per State of California Regulations, adequate separation must be maintained between the sewer main and all other wet utilities. Sewer mains will be no closer than 10' edge to edge from any other utility, structure, or hardscape (curbs, medians, planters, retaining walls, etc.).

WATER REQUIREMENTS:

98. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, both potable and reclaimed, identified in the accepted water studies, necessary to serve this development, in a manner satisfactory to the Water Department Director and the City Engineer, maintaining redundancy throughout phasing of construction. At no time shall public water facilities with services be located within any paved travel ways less than 24-feet wide.

99. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of reclaimed water irrigation service(s), in a manner satisfactory to the Water Department Director and the City Engineer. If reclaimed water is not yet available, then the irrigation systems shall be designed in such a manner as to accept reclaimed water when available and avoid any potential cross connections.

100. The Owner/Permittee shall install encroachment water services, to serve each unit or building with less than forty (40) feet of frontage on public water facilities or less than ten feet curb to property line distance, in a manner satisfactory to the Water Department Director and the City Engineer. All water meters shall be installed behind full height curb and outside of sidewalks or any vehicular travel way including driveways.

101. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of private back flow prevention device(s) on each water service within the development, in a manner satisfactory to the Water Department Director and the City Engineer.

102. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

103. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall provide a letter, to the Development Project Manager, agreeing to prepare CC&Rs for the operation and maintenance of all private water facilities that serve or traverse more than a single lot or condominium unit.

104. Prior to the issuance of any building or engineering permits, except grading, the Owner/Permittee shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer. Easements, as shown on approved Exhibit "A", will require modification based on standards at final engineering.

105. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures, private utilities or landscaping into any easement containing public water facilities. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

106. Prior to the issuance of any certificates of occupancy, the public water facilities, including fire hydrants, necessary to serve this development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

107. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall provide keyed access to Water Operations Division, in a manner satisfactory to the Water Department Director, on each gate located within any easement containing public water facilities. The City will not be held responsible for any issues that may arise relative to the availability of keys.

108. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and associated easements, as shown on approved Exhibit "A," shall be modified at final engineering in accordance with accepted studies and standards. Parallel water facilities shall have a minimum separation of 20-feet.

109. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the Water Department Director and the City Engineer, will become off-site improvements required for this development.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on March XX, 2004, Resolution Number XX-XXXXX.

rev 10/21/03 dcj
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AUTHENTICATED BY THE CITY MANAGER

By

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

[NAME OF COMPANY]
Owner/Permittee

By

By

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

07/28/03dcj
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